

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STEVEN L. MALDONADO,

Petitioner,

vs.

No. CV 20-00507 MV/GJF

FNU Martinez,

Respondent.

ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL

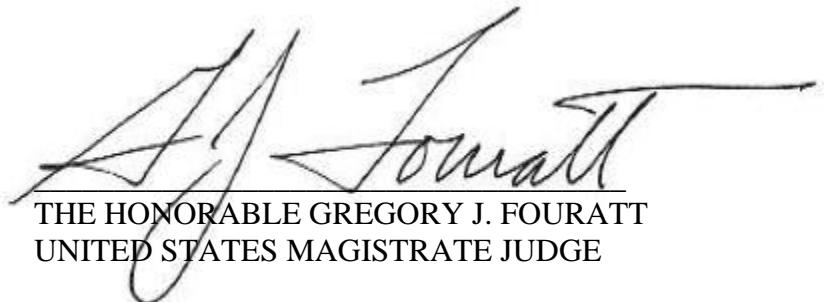
THIS MATTER is before the Court on the New Mexico state court “Form 9-704 Order for Appointment for Habeas Corpus Proceedings Under Rule 5-802 NMRA” filed by Petitioner Steven L. Maldonado (Doc. 8). The Court construes Petitioner’s filing as a request for appointment of counsel¹ and will deny the Motion.

Petitioner is a prisoner in the custody of the State of New Mexico and seeks habeas corpus review of his New Mexico conviction and sentence under 28 U.S.C. § 2254. There is no right to appointment of counsel in a habeas corpus case under 28 U.S.C. § 2254. Instead, the decision whether to request assistance of counsel rests in the sound discretion of the Court. *See, e.g., Coleman v. Thompson*, 501 U.S. 722 (1991); *Swazo v. Wyoming Dep’t of Corr. State Penitentiary Warden*, 23 F.3d 332, 333 (10th Cir. 1994). In determining whether to appoint counsel, the district court should consider the merits of the litigant’s claims, the nature and complexity of the factual and legal issues, and the litigant’s ability to investigate the facts and to present his claims. *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir.2004).

¹ The Court notifies Petitioner that this is a federal court proceeding, not a state court proceeding, and neither New Mexico Rule 5-802 NMRA nor New Mexico Form 9-704 have any application to this proceeding.

The Court has reviewed the Petition and subsequent filings in light of the foregoing factors. Petitioner appears to understand the issues in the case and to be representing himself in a capable manner. *See Lucero v. Gunter*, 52 F.3d 874, 878 (10th Cir. 1995). Accordingly, the Court will deny the Motion for Appointment of Counsel.

IT IS ORDERED that the “Form 9-704 Order for Appointment for Habeas Corpus Proceedings Under Rule 5-802 NMRA” filed by Petitioner Steven L. Maldonado (Doc. 8) is **DENIED**.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE